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TAGS: [PGOV](#) [PHUM](#) [KDEM](#) [VE](#)
SUBJECT: SUPREME COURT LAW REEMERGES

REF: A. 2003 CARACAS 03406

[B](#). 2003 CARACAS 01852
[C](#). CARACAS 01267

Classified By: Abelardo A. Arias, Political Counselor, for reasons 1.4
(B) and (D)

Summary

[1](#). (U) Pro-GOV National Assembly (AN) deputies reestablished the Supreme Court Law as a legislative priority April 15, after the bill laid dormant since 2003. The Constitutional Chamber of the Supreme Court removed potential legal roadblocks to the bill with a 3 to 2 January 26 ruling asserting the AN could pass the law with a simply majority. The law would expand the court from 20 to 32 members and allow new justices to be approved by a simple NA majority, leading to charges of GOV court packing. Opposition legislators continue a strategy of delay and filibuster that began in August, 2003. End Summary.

Supreme Court Law: From Backburner to Full Throttle

[2](#). (U) After placing the Supreme Court Law on the backburner since last year, the pro-GOV Bloque de Cambio of National Assembly (AN) legislators vigorously resumed attempts to pass it April 15. The Bloque de Cambio approved four articles during 16 hours of debate that concluded at 8 a.m. April 16, and has continued to debate the bill, albeit with turtle's progress, in lengthy session April 20. The Assembly has approved 14 of the bill's 29 articles have since debate began last August due to opposition delay tactics.

[3](#). (C) AN Deputy Leopoldo Martinez told poloffs April 15 that he suspects the pro-GoV effort is timed to intimidate Supreme Court (TSJ) justices who are considering the validity of signatures gathered to convoke a recall referendum on President Hugo Chavez (ref c). He claimed before April 15 pro-GOV legislators seemed content to postpone the bill's passage pending a clear result to the recall question, but now "Chavez is cracking the whip." He claimed Chavez is playing an "all or nothing game" that could backfire as justices react defensively to the not-so-subtle bullying.

[4](#). (C) Martinez predicted the pro-Chavez coalition known as the Bloque de Cambio could pass the bill in less than a month without changing debating rules as they have done in the past, by passing marathon session extensions and ignoring other pending legislation. COPEI SecGen Cesar Perez Vivas told poloff March 9 that the opposition could stall the bill until after August. The opposition deputies have also set up a "duty roster" to ensure they have votes on hand for the procedural votes to delay action.

SUPREME COURT FACILITATE PASSAGE OF SUPREME COURT LAW

[5](#). (U) The Venezuelan Supreme Court (TSJ) released a ruling January 26 clarifying that only a simple majority vote is needed to pass the controversial Supreme Court Law in the National Assembly (NA). The Court's five-member Constitutional Chamber ruled 3-2 that the 1999 Constitution did not require a two-thirds majority vote for an organic law that modifies an existing organic law. They argued the new 1999 constitution only requires a two-thirds majority to approve all new organic laws.

[6](#). (U) The decision generated public criticism from opposition leaders and current and former members of the Supreme Court. Justices Antonio Garcia and Pedro Rondon, who voted against the decision, argued that because the proposed law is a replacement for the existing Supreme Court Law, which preexists the 1999 Constitution, it should not be considered "new" nor be subject to the Constitution's simple majority stipulation for "new" laws. Additionally, they

claim the ruling destroys the organic designation, a valuable legal tradition that protects institutions from political tinkering with the stricter two-thirds requirement. Garcia said the ruling gave the assembly a "blank check" to

influence government institutions because the new voting standard is a majority of legislators present. Because a quorum consists of 84 deputies, Garcia asserted, the law could be passed with the support of 43 legislators, or 25 percent of the 165-person Assembly.

Still Waiting For Rule Changing Session

17. (C) To expedite the law's passage, the Bloque de Cambio has threatened to speed the process by changing internal NA rules, a maneuver they have used six times in the past four years. Opposition legislators warn the new proposed changes, including temporary suspensions of deputies for disrupting sessions, would make the assembly a rubber stamp for President Hugo Chavez and violate their democratic rights to participation. Bloque de Cambio legislators argue that the opposition shouldn't be allowed to block their initiatives indefinitely with stalling tactics.

Law Would Change Court Composition

19. (U) The Supreme Court law, a legislative priority for the Chavez government, would expand the court from 20 to 32 members and allow new justices to be approved by a simple AN majority. The current justices were elected by a two-thirds majority. Bloque de Cambio legislators have been trying to pass the law from the Assembly floor since August 2002, but opposition delaying tactics have minimized GOV progress to an average of two articles per session (ref a). Opposition deputies fear the law would allow the Bloque de Cambio's slim majority to pack the court with pro-GOV justices. Bloque de Cambio legislators argue more justices are needed for the increased workload the Court would receive under the law.

Comment

110. (C) The TSJ Law would give Chavez a stranglehold over the judicial branch, as the TSJ is also tasked with appointing subordinate judges. It has been a priority for the National Assembly's pro-Chavez majority for some time. Opposition deputies have not made it easy for the Chavistas to make progress on the legislation, but theirs is a losing battle. The Supreme Court decision clinched passage of the bill for Chavez, and it is only a matter of time before greater control of the judiciary is his.
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